



LESOTHO HIGHLANDS WATER PROJECT (LHWP)

LHWP PHASE II COMPENSATION POLICY

(v8.1)

Lesotho Highlands Development Authority
Lesotho Highlands Water Commission

(Date Approved: 25 August 2016)

TABLE OF CONTENTS

PREFACE.....	III
ACRONYMS/ABBREVIATIONS	III
GLOSSARY OF TERMS.....	III
1 INTRODUCTION	1
1.1 BACKGROUND	1
1.2 SCOPE OF APPLICATION	2
1.3 OBJECTIVES AND GUIDING PRINCIPLES	2
1.4 RESPONSIBILITY FOR COSTS	3
1.5 EFFECTIVE DATE AND REVISIONS/AMENDMENTS.....	3
1.6 PUBLIC DISCLOSURE	3
2 LEGAL FRAMEWORK	4
2.1 TREATY ON THE LESOTHO HIGHLANDS WATER PROJECT (1986).....	4
2.2 AGREEMENT ON PHASE II OF THE LESOTHO HIGHLANDS WATER PROJECT (2011)	4
2.3 LHDA ORDER (1986).....	4
2.4 LHWP COMPENSATION REGULATIONS.....	4
2.5 CONSTITUTION OF LESOTHO (1993)	4
2.6 LAND ACT (2010)	5
2.7 LEGAL CAPACITY OF MARRIED PERSONS ACT (2006).....	5
2.8 ADMINISTRATION OF ESTATES PROCLAMATION	5
2.9 CHILDREN’S PROTECTION AND WELFARE ACT (2011).....	5
3 LAND ACQUISITION AND RESETTLEMENT MANAGEMENT	6
3.1 LEGAL AUTHORITY	6
3.2 PERMANENT LAND ACQUISITION AND OCCUPATION	6
3.2.1 <i>Power Line Servitudes</i>	6
3.2.2 <i>Access Road Servitudes</i>	7
3.2.3 <i>Land Acquisition in Urban Areas</i>	7
3.3 TEMPORARY LAND OCCUPATION	7
3.4 RESETTLEMENT PLANNING	7
3.4.1 <i>Consultation and Disclosure</i>	8
3.4.2 <i>Census of Affected Persons</i>	8
3.4.3 <i>Asset Registration</i>	8
3.4.4 <i>Compensation Rates</i>	9
3.5 ELIGIBILITY TO ENTITLEMENTS	9
3.5.1 <i>Relocation Eligibility and Options</i>	9
3.5.2 <i>Eligibility for Compensation</i>	10
3.5.3 <i>Cut-Off Dates to Entitlements</i>	10
3.6 COMPENSATION AGREEMENTS AND DISBURSEMENT	11
3.7 SECURITY OF TENURE	11
4 COMPENSATION ENTITLEMENTS	12
4.1 ENTITLEMENTS FOR INDIVIDUAL ASSETS	12
4.1.1 <i>Houses, Associated Structures and Residential Plots</i>	12
4.1.2 <i>Business Enterprises and Plots</i>	13

4.1.3	<i>Agricultural Fields</i>	14
4.1.4	<i>Food Gardens</i>	15
4.1.5	<i>Trees and Thickets</i>	16
4.1.6	<i>Standing Crops</i>	16
4.1.7	<i>Cultivators with Secondary Land Rights</i>	16
4.1.8	<i>Graves</i>	18
4.2	ENTITLEMENTS FOR COMMUNAL AND PUBLIC ASSETS.....	18
4.2.1	<i>Rangeland and Useful Natural Resources</i>	18
4.2.2	<i>Trees and Thickets</i>	18
4.2.3	<i>Water Supplies</i>	19
4.2.4	<i>Community-Owned Facilities</i>	19
4.2.5	<i>Cultural Assets</i>	19
4.2.6	<i>Institutional Property</i>	19
4.3	GOVERNMENT-OWNED INFRASTRUCTURE.....	19
4.4	DOWNSTREAM IMPACTS	20
5	SPECIAL PROVISIONS	21
5.1	DISTURBANCE ALLOWANCES	21
5.1.1	<i>Household Disturbance Allowance</i>	21
5.1.2	<i>Small Scale/Informal Trader Disturbance Allowance</i>	21
5.1.3	<i>Commercial Enterprise Disturbance Allowance</i>	21
5.2	EVACUATION ASSISTANCE	21
5.3	LIVELIHOOD RESTORATION AND SOCIAL DEVELOPMENT	21
5.4	VULNERABLE HOUSEHOLDS.....	22
5.5	MINIMUM HOUSEHOLD INCOME THRESHOLD	22
5.6	ORPHANS.....	22
6	HOST COMMUNITIES	23
7	GRIEVANCE AND DISPUTE RESOLUTION	24
8	MONITORING AND EVALUATION	25

PREFACE

This Compensation Policy is available in English and Sesotho, both text being equally authentic. However, in case of any ambiguity, reference will be made to the English version.

ACRONYMS/ABBREVIATIONS

LAA	- Land Administration Authority
LHDA	- Lesotho Highlands Development Authority
LHWC	- Lesotho Highlands Water Commission
LHWP	- Lesotho Highlands Water Project
M&E	- Monitoring and Evaluation
PoE	- Panel of Experts
RAP	- Resettlement Action Plan
WATSAN	- Water and Sanitation

GLOSSARY OF TERMS

Affected household: a household that suffers assets losses as a result of LHWP Phase II activities, and for which compensation, and resettlement entitlements where applicable, are due.

Affected people: are defined as those whose livelihoods and standards of living are adversely affected by Project activities - whether through the loss of assets or access to assets, through being deprived of resources, through loss of income sources or means of livelihood, through physical relocation, or through other losses that may be identified during the process of resettlement planning.

Affected village: a village that is completely or partially inundated, or within the reservoir demarcation line, or affected by construction works, or situated in a place regarded as dangerous in relation to the reservoir or to construction works, or affected as a result of reservoir impoundment.

Assets: all individual or communal properties for which compensation is due.

Asset inventory: assembly of specified individual, communal and state assets as determined at a certain point in time through field surveys and the use of aerial photos, mapping, satellite imagery, etc.

Brushwood: naturally growing shrub, which is a communal fuel resource.

Commercial property: facility or asset used primarily for the purposes of commercial activity.

Communal assets and resources: property such as land and vegetation to which rights have traditionally been held by the community and which are currently under the management authority of Community Councils, District Councils or Principal Chiefs in terms of the Local Government Act 1997 as amended.

Compensation: payment in kind or lump sum/annual payments (cheque or other acceptable mechanism) for an asset or a resource that is acquired or affected by the Project. **Devaluation compensation** is compensation paid to the rights holder for foregoing the future benefit of using agricultural land within the servitude/wayleave of a power line for other developments.

Development: comprises the activities designed to improve the standard of living of the individuals and communities affected by the Project.

Disturbance allowance: an allowance paid to physically displaced households and businesses intended to meet the unforeseen but inevitable initial costs of moving, as well as compensating for the intangible emotional costs inflicted by the relocation process.

Economic displacement: loss of assets or access to assets that leads to loss of income sources or other means of livelihood.

Entitlement: range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to affected people, depending on the nature of their losses, to restore and improve their economic and social base.

Expropriation: the action of a government in taking or modifying property rights of an individual in the exercise of its sovereignty.

Field: land used for cultivation of non-horticultural crops.

Food Garden: land on a residential site or a piece of land that is used for the cultivation of vegetables (not field crops or trees) for non-commercial purposes. This excludes land used for commercial vegetable production.

Head of household: the person who generally runs the affairs of the household and is looked on by other members of the household as the main decision-maker.

Homestead: a building or group of buildings occupied by a household.

Host community and population: community residing in or near the area to which affected people are to be relocated, and who may be affected by the resettlement programme.

House: includes all buildings in which people live or sleep, or could do so without major additions or improvements.

Household: a group of persons with one family head bound by blood, marital or legal relationship living together in a dwelling (home or homestead).

Involuntary resettlement: resettlement is involuntary when displaced persons give their consent without having the power to refuse resettlement, or where it occurs without their consent.

Medicinal plants: naturally growing plants that are used for medicinal purposes.

Non-owning occupant: a person, excluding visitors, who lives in a house he or she does not own.

Orphan: a person younger than 18 years who has lost both parents.

Phase II Scheme: the programme of developments for Phase II of the Lesotho Highlands Water Project that is approved in terms of Part VIII of the Lesotho Highlands Development Authority Order 1986, as amended.

Project-affected person: any person who, as a result of the implementation of the Project, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, or pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily.

Project-designated resettlement site: a site used for the relocation of a village or group of villages. The site is chosen with the participation of the concerned villagers and local authorities (and host communities where applicable) and planned and developed for the relocation programme.

Physical displacement: loss of shelter and assets resulting from the acquisition of land associated with a project that requires the affected person(s) to move to another location.

Recipient: the household head or his/her representative who is entitled to receive compensation.

Rehabilitation: re-establishing incomes, livelihoods and social systems.

Relocation: the physical removal of a household or business to a new site.

Replacement cost for buildings and structures: the cost of purchasing or building a new structure, with size and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labour and contractors' fees and any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.

Resettlement: the process of addressing the effects of physical and economic displacement, which incorporates compensation, relocation and livelihood restoration.

Reservoir demarcation line: the surveyed and marked line of the Polihali Reservoir (2080 metres above sea level) below which no human habitation may occur, taking account of the full supply line, the possible maximum flood level, backwater effects and safety factors. Properties and assets recorded and adjudicated below this line during the asset registration exercise will be compensated for in terms of the measures detailed in this Compensation Policy.

Resettlement Action Plan (RAP): a time-bound action plan with budget setting out resettlement strategy, objectives, entitlements, actions, responsibilities, monitoring and evaluation.

Residential plot: a piece of land that is legally owned, allocated or leased to a household head or any individual for residential purposes.

Secondary rights: rights of temporary usage, as opposed to permanent rights of ownership in the case of a house, or of customary rights to arable land as acknowledged by the traditional or elected land authorities.

Stakeholders: any and all individuals, groups, organisations, and institutions interested in and potentially affected by a project or having the ability to influence a project.

Thickets: a dense growth of shrubs or underbrush.

Tree: a woody perennial plant, typically, but not always, having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground. Fruit-bearing trees are trees bearing edible fruit (e.g. peach tree); non-fruit bearing trees are timber trees such as willows and poplars.

Urban area: an area declared by statutory law (the Town and Country Planning Act 1980 and its regulations and/or successor legislation).

Useful grasses: those which have a practical use, apart from providing fodder for livestock, such as for construction, handicrafts, etc.

Vulnerable household: a household that is headed by a child or a disabled person or an elderly, indigent person.

1 INTRODUCTION

1.1 Background

Following a feasibility study conducted between 2006 and 2008, the governments of the Kingdom of Lesotho and the Republic of South Africa signed an agreement on 11 August 2011 for the implementation of Phase II of the Lesotho Highlands Water Project. Phase II has the following major features:

- **Polihali Dam and Reservoir.** A 163m high concrete-faced rock-fill dam will be constructed in Mokhotlong District, approximately one kilometre downstream of the confluence of the Senqu and Khubelu Rivers. The Reservoir will inundate 5,040ha of land at full supply level, of which an estimated 1,125ha is arable land.
- **Polihali to Katse Tunnel.** A 38km tunnel will be constructed to transfer water from Polihali Reservoir to Katse Reservoir (constructed under Phase IA). Water will be abstracted from the Polihali Reservoir through two intakes on the western side of the Reservoir, from where it will be transferred by gravity to the Katse system.
- **Associated infrastructure.** Infrastructure required for the construction and operation of Phase II includes access roads (upgrading of existing roads and construction of new access roads, including feeder roads and minor bridges around the Reservoir area), electricity supply from the Ha Lejone sub-station via a transmission line to the Polihali works areas, provision of telecommunications facilities, and construction and operations work areas and facilities (e.g., residential areas, construction offices and workshop facilities).
- **Kobong Pumped Storage Scheme.** The scheme includes a 101m high dam and intake tower on the Kobong River, a headrace tunnel and 1,200MW underground power station, a tailrace tunnel and outlet tower at Katse Dam, a 65km long 400kv transmission line to Maputsoe, and a switchyard at Katse Dam.

Implementation of Phase II will lead to physical and economic displacement and have potentially significant impacts on the livelihoods and socio-economic status of the local population. The Phase II Feasibility Study estimates that Polihali Reservoir will necessitate the relocation of 272 households from five completely inundated villages and a further five partially inundated villages, while a further six villages will be threatened due to close proximity to the water body and/or significantly impeded access. In addition, many households will be economically displaced due to the inundation/acquisition of their arable and grazing land and other natural resources, and impeded access to resources, facilities and other villages. The town of Mokhotlong, located at the headwaters of the Polihali Reservoir, will be marginally affected by impoundment of the Reservoir.

The Phase II Agreement stipulates the preparation of a compensation policy to address these involuntary resettlement impacts. This Compensation Policy (hereinafter referred to as the Policy) has subsequently been prepared for Phase II, taking account of the existing Phase I Compensation Policy and the recommendations of the Phase II Feasibility Study. The Policy covers compensation, resettlement and livelihood restoration.

The Lesotho Highlands Development Authority (LHDA) is the custodian of the Policy and is responsible for its implementation. LHDA will appoint consultants and contractors to assist with the execution of the Phase II resettlement and compensation programme, and shall ensure that all compensation and resettlement activities adhere to the principles and requirements of the Policy.

1.2 Scope of Application

The Policy applies to all losses of assets and income, and impacts on livelihoods suffered by people, households, communities and institutions as a result of the implementation of Phase II of the LHWP. All persons affected by Phase II will be entitled to equitable treatment as embodied in this Policy. The Policy does not apply to Phase I of the LHWP which is covered by the Phase I Compensation Policy.

1.3 Objectives and Guiding Principles

The overall goal of the Policy is to ensure that the project complies with all legal obligations, through the design and implementation of a resettlement programme that gives affected persons the opportunity to at least restore, and preferably to improve, their livelihoods and standards of living. The Policy promotes the participatory design of compensation, resettlement and livelihood restoration measures for both affected and host communities.

In support of the Policy objective, the following principles have been prepared, taking account of internationally recognised standards and guidelines, to ensure that the social and economic risks associated with involuntary land acquisition and resettlement are dealt with consciously and consistently:

Asset acquisition and involuntary resettlement will be minimised. Involuntary resettlement will be minimised as far as possible, by exploring all viable alternative Project designs. Where asset acquisition and involuntary resettlement occur, why this is unavoidable will be documented.

Ongoing consultation with affected people and disclosure of information will occur. Affected people have the right: (a) to be informed of Project proposals and implementation schedules; (b) to be consulted on, and participate in, issues pertaining to them such as the identification, selection and development of measures to restore their livelihoods; (c) to be informed of displacement and land acquisition dates sufficiently in advance of actual implementation; and (d) to have access to relevant Project documents, such as Resettlement Action Plans, at a place accessible to them, and in a form, manner, and language that is understandable to them.

Compensation and resettlement planning, budgeting and implementation will be an integral part of the Project. To ensure that asset acquisition and involuntary resettlement are integral components of the Project: (a) asset acquisition and resettlement costs will be built into Project budgets as an upfront cost; (b) an institutional framework will be developed within LHDA to ensure that appropriate social impact management mechanisms are set up and maintained during implementation; and (c) asset registration and acquisition will be undertaken ahead of civil works activities, and construction will commence only after acquisition procedures have been successfully initiated.

Affected persons will be assisted to at least restore, and preferably to improve, their livelihoods. The pre-Project livelihoods of affected persons will be restored, and preferably improved, through: (a) the prompt provision of compensation for the loss of assets directly attributable to a project; (b) the provision of housing support (replacement housing, lump sum compensation or other method) and residential site support (replacement site or lump sum compensation) where physical relocation is required; (c) the provision of resettlement support measures where physical relocation is required; and (d) the implementation of other livelihood restoration and development measures.

Cultural and religious practices will be respected. Existing cultural and religious practices will be respected and, to the maximum extent practical, preserved. This extends to cultural heritage.

Grievance redress and monitoring procedures will be in place. Accessible procedures will be implemented to ensure that grievances and disputes are promptly addressed. Affected people whose grievances cannot be resolved through the Project's grievance resolution procedures will have recourse to national law through the judiciary. The office of the Ombudsman may also be approached by aggrieved persons.

Monitoring procedures will be implemented to assess the effectiveness of land acquisition, compensation and resettlement procedures. Monitoring will be an ongoing activity, employing mechanisms such as internal (performance) monitoring, standardised (quantitative) socio-economic monitoring, participatory (qualitative) monitoring and external audits.

1.4 Responsibility for Costs

All costs associated with implementation of the Policy provisions will be counted as a Project cost.

1.5 Effective Date and Revisions/Amendments

The Policy will be administered by the LHDA and come into effect on the date it is approved by the Lesotho Highland Water Commission (LHWC).

LHDA will ensure that the Policy is reviewed as required, for example to accommodate changes in laws. Any amendments required to the Policy will be undertaken by LHDA with the full involvement of affected communities, their authorities and other key stakeholders. Any amendments or changes proposed during Project implementation will require the prior approval of the LHDA Board and the LHWC.

1.6 Public Disclosure

The Policy has been prepared on the basis of consultations with affected communities, their authorities and other key stakeholders. English and Sesotho versions of the Policy will be made available to affected communities via the local authority structures (District Councils, Urban Councils, Community Councils and Chiefs) as well as through local participation structures set up for Phase II. The Policy will also be posted on the LHDA website.

Where required, English and Sesotho versions of any amended documents will be made available to the public in the same manner.

2 LEGAL FRAMEWORK

LHDA's legal obligations to the people and communities affected by Phase II, upon which this Compensation Policy is based, are contained in the Treaty on the Lesotho Highlands Water Project, the LHDA Order of 1986, the LHWP Compensation Regulations and the Phase II Agreement, as well as relevant legislation such as the Constitution of Lesotho and the Land Act of 2010.

2.1 Treaty on the Lesotho Highlands Water Project (1986)

The Treaty on the Lesotho Highlands Water Project was signed on 24 October 1986 between the governments of the Kingdom of Lesotho and the Republic of South Africa. The basis of the Compensation Policy is expressed in Article 7(18) of the Treaty: "The LHDA shall effect all measures to ensure that members of local communities in the Kingdom of Lesotho, who will be affected by flooding, construction works, or other similar project-related works, will be enabled to maintain a standard of living not inferior to that obtaining at the time of first disturbance: Provided that such Authority shall effect compensation for any loss to such member as a result of such project related causes, not adequately met by such measures." Article 15 states that the "Parties agree to take all reasonable measures to ensure that the implementation, operation and maintenance of the Project are compatible with the protection of the existing quality of the environment and, in particular, shall pay due regard to the maintenance of the welfare of persons and communities immediately affected by the project."

2.2 Agreement on Phase II of the Lesotho Highlands Water Project (2011)

Article 15 (Compensation) of the Agreement states that "(1) The Lesotho Highlands Development Authority shall effect compensation in accordance with the provisions of Article 7(18) of the Treaty and the principles contained in Article 15 of the Treaty ... (2) Compensation shall be effected in accordance with the Phase II compensation policy and procedures to be developed by the Lesotho Highlands Development Authority and approved by the Lesotho Highlands Water Commission ... (3) The Phase II compensation policy shall be developed taking into account the compensation policy for Phase 1 as well as the Phase II Feasibility Study recommendations."

2.3 LHDA Order (1986)

The Order establishes the Lesotho Highlands Development Authority and enables it to implement the LHWP. Section 44(2) states that LHDA will "ensure that as far as reasonably possible the standard of living and the income of persons displaced by the construction of an approved scheme shall not be reduced from the standard of living and the income existing prior to the displacement of such persons."

2.4 LHWP Compensation Regulations

The LHWP Compensation Regulations make legal provision for the implementation of the LHWP Compensation Policy.

2.5 Constitution of Lesotho (1993)

The Constitution of Lesotho protects citizens from the arbitrary seizure of property. Article 17(1) states that "no property, movable or immovable, shall be taken possession of compulsorily, and no interest in or right over any such property shall be compulsorily acquired, except where the following conditions are satisfied:

- (a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit;
- (b) the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and
- (c) provision is made applicable to that taking of possession or acquisition for the prompt payment of full compensation.”

Article 17(2) grants a person with an interest in or right over property that is compulsorily acquired “a right of direct access to the High Court for:

- (a) the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled;
- (b) the purpose of obtaining prompt payment of that compensation.”

2.6 Land Act (2010)

The Land Act of 2010 (supported by the Land Regulations of 2011) is the principal legislation governing land ownership and occupation, and the acquisition of property for public and development purposes. Part IX of the Act differentiates between land acquired in the public interest and land acquired for public purposes. According to the definitions in the Act, the LHWP falls into the latter category.

Part X, Section 56 of the Act states that “in all cases in which the implementation of this Act results in compulsory acquisition of property, the person deprived of such property shall be entitled to compensation at market value”. Section 56 will generally not be applicable to compensation for Phase II of the LHWP because there is no active or legal market in land, houses or trees in the areas affected by Phase II, and the concept of market value for such property cannot therefore be applied. However, should the Project affect land and property in urban areas where a market value does exist, the provisions of Section 56 will apply.

Section 10(1) of the Act confers joint title to property to both spouses married in community of property (under civil, customary or any other law, irrespective of the date on which the marriage was entered into), and equal powers in land transactions.

2.7 Legal Capacity of Married Persons Act (2006)

The Act confers equal powers on both spouses married in community of property, giving them equal capacity to dispose of the assets of the joint estate, contract debts for which the joint estate is liable, and administer the joint estate.

2.8 Administration of Estates Proclamation

Proclamation 19 of 1935 (Administration of Estates) makes provision for the administration of, amongst others, the estates of deceased persons, mentally incapacitated persons and minors by the Master of the High Court.

2.9 Children’s Protection and Welfare Act (2011)

Part V of the Act describes the administration of the property of children by the Office of the Master of the High Court.

3 LAND ACQUISITION AND RESETTLEMENT MANAGEMENT

3.1 Legal Authority

In acquiring and compensating for assets required for the Project, LHDA will operate with the legal authority, and comply with the requirements, of the LHDA Order 1986, as amended, and the Land Act 2010, as amended, as set out and interpreted in Section 2.

3.2 Permanent Land Acquisition and Occupation

Permanent land acquisition will in most cases occur for the exclusive occupation and use by LHDA, for instance, for the construction of permanent structures such as dams, roads and buildings. In these cases, all previous rights over the land will be extinguished and unauthorised access to or use of the land prohibited. Full compensation shall be paid to eligible households for losses according to the entitlements detailed in Section 4.

In some instances, access may be granted to individuals or the public to areas that have been permanently acquired by LHDA, and compensated for according to the provisions of Section 4, subject to specified conditions. These instances include:

- land occupied by a reservoir where LHDA may permit and encourage people to fish, operate boats, etc.;
- land on the periphery of a reservoir, where LHDA proclaims a 'safety zone' within which human settlement is excluded in order to reduce hazards to local residents; and
- land in the drawdown zone, which could be developed for fodder production or improved grazing.

Access to these categories of land may be allowed by LHDA subject to an agreement with prospective users. The agreements may be terminated by LHDA if the land or water is being used irresponsibly or unproductively, or if LHDA wishes to resume occupancy.

3.2.1 Power Line Servitudes

All permanent losses for the construction of power line infrastructure will be compensated according to the provisions of the Policy. Power lines will, as far as possible, be routed to avoid residential, business and institutional property, as well as agricultural fields to the extent possible. Where a power line crosses residential, business and institutional land, the land in the declared servitude will be permanently acquired and compensated in full. Any structures within the servitude will be removed and compensated. Where a power line crosses agricultural or food garden land, the affected owner will receive a lump sum 'devaluation' compensation for the portion of land within the servitude and the following conditions applied:

- no structures (houses or other buildings);
- no vegetation above 3m height; and
- no storage of flammable or explosive materials.

The land for which devaluation compensation has been paid will remain the property of the owner and agricultural activities and other land uses will be permitted, subject to the conditions noted above and any other conditions that may be attached to the servitude. These conditions will remain in force in the event that the land is sold/transferred to another owner. The owner will allow access for maintenance

work on the power lines. Any disturbances during maintenance work will be mitigated by the Project (e.g. land reinstatement measures, compensation for agricultural production losses).

Communal land in the servitude of a power line is not compensated for, and land uses such as livestock grazing will be allowed to continue.

3.2.2 Access Road Servitudes

Servitudes will be declared for all permanent access roads constructed under Phase II, in compliance with the Project's legal framework and taking account of the standards and regulations of the Roads Directorate of the Ministry of Public Works and Transport. Persons affected by the declaration of road servitudes, and who meet the eligibility requirements, will be compensated for the loss of private property and assets in accordance with the Policy stipulations.

Communal land affected by the construction of access roads will be compensated as per the provisions of Section 4.2. However, unaffected communal land in road reserves is not compensated for and land uses such as livestock grazing will be allowed to continue.

3.2.3 Land Acquisition in Urban Areas

LHDA may acquire land in an urban area for Project construction purposes, or for purposes of resettling families displaced by the Project. When acquiring land for either purpose, LHDA will follow the regulations and procedures set out in the Land Act of 2010, and act in collaboration with the Land Administration Authority (LAA).

3.3 Temporary Land Occupation

Land may be temporarily occupied by the Project for exclusive use by LHDA, for instance land on which contractors' camps, borrow pits/quarries and temporary access roads are built. The land will be occupied through a temporary occupation agreement with the affected entity. LHDA will ensure that, as far as reasonably possible, land that is occupied in this manner is fully reinstated to its previous condition before it is returned to those holding permanent rights to it. Where the land cannot be reinstated to any form of productive use, permanent acquisition may be considered and negotiated with the concerned owners/authorities.

The holders of land occupied temporarily and exclusively by LHDA or its contractors will be compensated according to the same principles as people whose land is permanently acquired by the Project, for the required duration of the exclusive occupation. Where private land is required by the Project for a period of less than three months, the holder of the affected land rights will be compensated in the form of a lump sum payment. The land will, as far as reasonably possible, be fully restored to its original condition before it is returned to the holder.

Any permanent asset losses that occur on land that is temporarily occupied by the Project will be compensated at the applicable rates for permanent losses. Temporary loss of access to productive assets will similarly be compensated for, based on the duration of lost access.

3.4 Resettlement Planning

To achieve the objectives of this Policy a compensation and resettlement programme will be planned and executed by LHDA, following international best practice approaches. This will involve:

- preparation of Resettlement Actions Plans (RAPs) for the various Project components encompassing resettlement, compensation and livelihood restoration;
- execution of the compensation and resettlement programme according to a time-bound schedule that is integrated with the Project's civil works programme.

3.4.1 Consultation and Disclosure

LHDA is committed to an approach that emphasises sustainable development of resources and communities. This approach considers project-affected communities as key stakeholders, and places a premium on transparency and equity. LHDA shall:

- work with affected communities and their local authorities to set up consultation structures and disclosure mechanisms;
- ensure that affected people are kept fully informed of their rights and responsibilities by having easy access to understandable information;
- ensure that affected communities are placed in a position to participate in the resettlement planning and implementation process; and
- ensure that the outcome of the consultation process is properly recorded and incorporated into the decision-making process.

Information disclosure and consultation with stakeholders is an ongoing process, and will be conducted and adjusted as required throughout the project cycle, forming a key component of the development, implementation and operation of the project.

3.4.2 Census of Affected Persons

Socio-economic censuses of affected people will be undertaken for all Project components. Where a Project component is located in the area covered by the comprehensive socio-economic baseline survey of 2013, information collected on affected people during the survey will be updated. Where a Project component is located outside the area covered by the baseline study, a census of affected people, based on the baseline survey instrument, will be conducted.

The censuses will cover all affected people, irrespective of their legal status to the land they are occupying or using.

3.4.3 Asset Registration

Asset registration and adjudication will be undertaken by LHDA, in the presence of the owners/their representatives and local authorities (Councils, Chiefs and members of community liaison committees), to determine all land rights and assets for which compensation will be payable. Asset registration and adjudication will include confirming proof of ownership of affected assets, and proof of the identity of affected owners, for which both formal (official) and informal (traditional) means of proof will be acceptable.

All permanent and temporary losses incurred by households, enterprises and communities will be recorded. The inventory of affected assets will differentiate between private/individual assets and communal assets and facilities, and will be aligned to LHDA's accounting requirements. Photos will be taken of all private assets and coordinates established.

As inventories and registers of assets are compiled, owners/household heads will countersign them, witnessed by Project authorities, local authorities and community representatives as required.

3.4.4 Compensation Rates

Compensation rates for Phase II have been declared under the Compensation Regulations. The rates are adjusted annually for price escalation using the Lesotho Consumer Price Index (CPI). Compensation for primary residential dwellings and formal business structures will be based on the principle of replacement cost. Consultations will occur with affected communities, their local authorities and district stakeholders to explain the rates and the basis for their calculation.

Where urban land and property are acquired, valuation will be carried out according to the provisions of the Land Act of 2010 and the associated Regulations. All valuations will be certified by LAA.

In the case of the provision of replacement agricultural land (land-for-land option), the following principles will apply to the new land:

- it will be identified and confirmed with the participation of the affected households and should as far as possible be located in reasonable proximity to where the displaced persons reside;
- it should be provided free of “transaction costs” such as registration fees, transfer taxes or customary tributes.

3.5 Eligibility to Entitlements

For purposes of the Policy, affected persons and their associated entitlements will be classified as follows:

Categories of Affected Persons	Compensation Entitlements
<ul style="list-style-type: none"> • Persons with formal legal rights to land or assets, including customary and traditional rights recognised under the laws of Lesotho. 	<ul style="list-style-type: none"> • Compensated for the land and assets they lose, and entitled to other assistance as provided for in the RAP.
<ul style="list-style-type: none"> • Persons with no formal legal rights to land, but with a claim to such land or assets, provided that such claims are recognised under the laws of Lesotho or become recognised through a process identified in the RAP. 	<ul style="list-style-type: none"> • Compensated for the land and assets they lose, and entitled to other assistance as provided for in the RAP.
<ul style="list-style-type: none"> • Persons with no recognisable legal right or claim to the land they are occupying. 	<ul style="list-style-type: none"> • Rehabilitation assistance (such as access to livelihood restoration programmes) in lieu of compensation for the land they occupy, compensation for asset losses on the land, as well as other assistance as provided for in the RAP, if they have occupied the area prior to an agreed cut-off date for entitlements.

3.5.1 Relocation Eligibility and Options

Relocation Eligibility

The relocation eligibility of affected households will be determined through:

- the systematic identification of all affected people, through the census and asset registration surveys and comprehensive consultation with affected persons, local communities and local authorities; and
- a participatory assessment with affected households and communities, and their local authorities and representatives, to determine eligibility for relocation.

Eligibility for Involuntary Relocation

The following factors will be considered in the determination of relocation eligibility:

- households located below the demarcation line of the Polihali Reservoir;
- households located in areas required for other Project components;
- households in villages situated in a place mutually agreed as unacceptably dangerous in relation to the Polihali Reservoir, to other Project components or to construction works;
- severity of impacts on livelihoods due to loss of land, assets and access; and
- social and village/neighbourhood considerations.

Relocation Options

Relocation options will be finalised with affected households, communities and local authorities during the resettlement planning exercise, based on the following range of options:

- Local relocation - when affected households relocate within the vicinity of their village, allowing them continued use of unaffected assets.
- Relocation to Project-designated sites in the Project area selected by affected households in collaboration with LHDA, local authorities and, where applicable, host communities.
- Self-relocation - when affected households relocate to a place of their own choice because of social and/or economic factors, as opposed to a Project resettlement site. Where self-relocation entails a move to a location outside the Project area, all entitlements will be paid as a lump sum, unless the location has been confirmed as a Project-designated resettlement site.

3.5.2 Eligibility for Compensation

The unit of entitlement for compensation against the loss of privately-held property and assets will be the owner or household, including orphaned minors who are entitled to their parents' estate. In the determination of compensation eligibility, LHDA will ensure compliance with the regulations of the Land Act (2010) and the Legal Capacity of Married Persons Act (2006).

Informed consultations will occur with affected households during the resettlement planning exercise to confirm their compensation preferences, especially for arable land losses, to ensure adequate time for the planning and implementation of the selected options. If a person holding rights for which LHDA is to effect compensation dies before all the compensation measures have been completed, LHDA will implement the compensation, or any incomplete balance thereof, in favour of the legally recognised heir of the deceased rights holder. Whether inheritance arrangements are governed by customary or common law will depend on the disposition made by the rights holder.

In terms of the Local Government Act 1997 as amended, management rights to the communal assets that will be acquired by the Project are held by Community Councils. As specified in Section 4.2.1, compensation for the loss of communal assets will be used for investment in approved community development ventures.

3.5.3 Cut-Off Dates to Entitlements

Cut-off dates to entitlements will be established for the various Project components in consultation with affected communities and local authorities, taking account of census surveys of affected people and asset registration exercises.

3.6 Compensation Agreements and Disbursement

Compensation Agreements will be signed between LHDA and affected owners/households, which will describe all the entitlements and forms of payment. Where persons are married in community of property (under civil, customary or any other law), the stipulations of the Legal Capacity of Married Persons Act (2006) and the Land Act (2010) pertaining to the administration of joint estates and immovable property will be adhered to in the signing of the Agreements.

Where ownership of a property/asset is under dispute, the compensation will be held by LHDA for disbursement to the rightful owner as determined through court proceedings. Where the compensation offer/award is disputed by the beneficiary, the compensation will be held by LHDA until a judgement is made through court proceedings after which the compensation as confirmed by the judgement will be awarded.

The management and disbursement of compensation will be the responsibility of LHDA. The following principles will apply:

- A timetable shall be prepared for the disbursement of compensation entitlements and timely access to the land required by the Project. Affected persons shall be given advance notice of the date, time and place of payments through the Project's participation structure, local authorities, public announcements and other suitable methods.
- LHDA shall not take possession of any private property prior to the signing of Agreements and the delivery of entitlements as per the Agreement. LHDA reserves the right to apply penalties where an affected party defaults on the terms of the Agreement.
- Households electing and qualifying for "self-relocation" to new residential sites identified by themselves shall be paid their full compensation entitlements sufficiently in advance of their relocation dates to allow them to evacuate their property on or before agreed evacuation dates. The same arrangement shall apply to households who resettle to a designated resettlement site if they opt to construct their own replacement housing. Where they opt for the provision of replacement housing by the Project, they shall not be moved until their new housing is ready for occupation.
- Any government taxes and duties related to the acquisition and registration of affected and new assets shall be the responsibility of the Project.

The parties will have recourse to the courts of law in the event that the terms and conditions of the Agreement are breached by the other party.

3.7 Security of Tenure

LHDA shall ensure that all individuals/households that are relocated to approved, Project-designated sites are provided with security of tenure on their replacement land according to the provisions of the Land Act of 2010.

4 COMPENSATION ENTITLEMENTS

This section describes the compensation entitlements and mitigation measures to be implemented under the Project.

4.1 Entitlements for Individual Assets

4.1.1 Houses, Associated Structures and Residential Plots

4.1.1.1 Houses and Structures

- a) The loss of houses will be compensated based on the principle of replacement cost. This will be in the form of replacement housing provided by the Project, or through direct construction by the owner (owner-builder method), or lump sum compensation, which will be assessed on a case-by-case basis.
- b) The provision of replacement housing will entail the following:
 - i. Replacement houses will be constructed at Project-designated resettlement sites or sites within the Project area identified by households and approved by LHDA and local authorities.
 - ii. Houses will be replaced at an equivalent floor area. Where a household's housing entitlement is less than 20 m², the household will be provided with a replacement house of 20 m².
 - iii. Replacement houses will be constructed with standard modern materials or traditional building materials if requested by affected households.
 - iv. Replacement housing will adhere to the country's building and sanitation standards as a minimum requirement, with a twelve (12) month defects liability period.
 - v. Households will participate in the design and layout of replacement houses and will be presented with a number of final designs from which to choose.
 - vi. Each household will be provided with a toilet of at least ventilated improved pit latrine (VIP) standard.
 - vii. An appropriate cooking and heating facility or traditional fireplace (where requested and feasible) will be provided in the new house.
 - viii. Each new residential plot will be fenced, up to a maximum residential plot size of 1,000 m² (see Section 4.1.1.2). If a household has a larger fencing entitlement, the difference will be compensated as a lump sum.
- c) Requests for lump sum compensation for houses or direct construction by the owner will be assessed on a case-by-case basis, taking account of the economic status and means of the household, and the wishes and preferences of the spouse and other household members. The construction of replacement houses by owners will be undertaken under the supervision of LHDA. In all instances where lump sum compensation or owner-builder construction are requested and offered, LHDA will ensure that the concerned households are ready to vacate their affected houses on an agreed evacuation date.
- d) In the following instances, compensation for the loss of houses and structures will be in the form of lump sum compensation only:
 - i. A household opting for self-relocation to a site identified by the household itself that is not part of a Project-designated site will be offered lump sum compensation only, including compensation for the acquired residential plot and for other affected homestead structures.

- LHDA will assess whether these households have arranged for replacement housing at the areas to which they will relocate.
- ii. Compensation for outbuildings such as kraals/stables and sheds will be paid as a lump sum. For vulnerable households, replacement structures will be constructed if requested.
 - iii. Tenants who have constructed their own residential structures on land rented from another person will receive lump sum compensation for the structures.
- e) Secondary structures such as outbuildings, kraals/stables and outside toilets will be compensated in accordance with the approved compensation rates or replaced.
- f) On-site amenities/services such as water points and electricity will be reinstated at the replacement residential site, or through the provision of suitable alternatives, or compensated as a lump sum where replacement is not possible.
- g) Owners of buildings, including owners of buildings and structures on public land, will have the right to salvage materials from their affected buildings. Salvageable materials will be removed at the owners' cost and within a period as agreed by LHDA, after which the structures will be demolished. The value of salvaged materials will not be deducted from compensation entitlements.

4.1.1.2 Residential Plots

- a) Compensation for residential plots will be in the form of replacement residential plots at a Project-designated/approved site or as a lump sum, and will be provided to:
- i. landowners who hold the land under traditional allocation or a lease agreement, or any other recognised system of land tenure;
 - ii. persons with no recognisable legal right to the land they occupy for residential purposes but whose status has been legalised either through the history of their occupation of the land or through a process in the RAP.
- b) Replacement residential plots at Project-designated/approved sites will not exceed 1,000 m² as specified in Part V (Section 31 (1)) of the Land Regulations (2011).
- c) Lump sum compensation for residential plots will be provided to households opting for self-relocation to non-Project designated sites.
- d) Where land is sub-leased in terms of a written agreement, or where any other sub-lease agreement can be confirmed, compensation for the land will be paid to the holder or leaseholder of the land. The holder or leaseholder will be expected to settle any outstanding liabilities with the sub-leaseholder. The sub-leaseholder will be entitled to compensation for any crops or trees grown on the land, or structures erected on the land, by him/her.

4.1.2 Business Enterprises and Plots

- a) Owners of relocated commercial properties will be compensated for their structures, as a lump sum or through the provision of a replacement structure, based on replacement cost.
- b) The Project will facilitate acquisition of a replacement site for commercial properties in coordination with the relevant authority, but where a site cannot be agreed upon compensation will be as a lump sum.

- c) Where a business that is forced to close cannot be re-opened, the value of the business, as distinct from the premises, will be established through a detailed impact assessment, upon which the compensation will be based. In such cases the owner will be required to sign an indemnity, exonerating the Project from any further claims.
- d) Where a business is temporarily affected during construction activities, the owner will be compensated for loss of profit during the period of impact, as determined through a detailed impact assessment. The owner will be required to sign an indemnity, exonerating the Project from further claims.
- e) Owners will have the right to salvage materials from their affected buildings. Salvageable materials will be removed at the owners' cost and within a period as agreed with LHDA, after which the structures will be demolished. The value of salvaged materials will not be deducted from compensation entitlements.
- f) Informal traders operating on public land with a licence or written approval from the local authority, or whose status has been legalised through the resettlement planning process, will be compensated for their affected structures located on the land.

4.1.3 Agricultural Fields

- a) Agricultural fields will be compensated by one or a combination of replacement land, lump sum or annual payments, and annual grain payments. Provision of replacement land is the preferred option. Extensive consultations and awareness-raising will occur and up-to-date information provided to affected households to ensure that they are in a position to make informed choices.
- b) The following general provisions will apply:
 - i. Where arable land greater than 1,000 m² is acquired by the Project, compensation will be in the form of land-for-land, lump sum or annual payments or grain payments. Where the acquired land is less than 1,000 m², compensation shall be in the form of a lump-sum payment or land-for-land (if suitable replacement land is available).
 - ii. Where LHDA requires part of a field, and the remainder of that field is less than 500 m² in area, LHDA shall, if the landholder agrees, acquire and compensate for the entire field. Where the field owner wishes to continue cultivating the remaining portion, LHDA shall normally permit him or her to do so.
 - iii. Households that are relocated from their localities and who can no longer access and use their unaffected assets will be compensated for all their assets in full. Any unaffected land that has been compensated for will be available for reallocation to affected households who are not relocated.
 - iv. Encroachers using land within the reserve of an existing road scheduled for upgrading under the Project will not be entitled to compensation for land losses. However, households cultivating land in a road reserve that has traditionally belonged to them will not be considered as encroachers, and will qualify for compensation for land losses if (i) the reserve was never officially declared and the household informed of this, or (ii) if the land was never officially expropriated, or (iii) if there are no records of the reserve having been declared and the land expropriated.

4.1.3.1 Land for Land

- a) The preference of affected households for the provision of replacement agricultural fields will be established early in the resettlement planning exercise to confirm the attractiveness of this option and preferred destinations, allowing sufficient time for detailed land investigations and consultations with host communities and authorities.
- b) LHDA will attempt to provide alternative field land of similar productive quality in a place within the same district that is acceptable to the household. Preference will be given to the identification of replacement agricultural fields in the broader vicinity to avoid the trauma potentially associated with out-of-area resettlement. However, given the premium on cultivation land in the Highlands, investigations will also extend to other areas within Mokhotlong District and the Phase II Project area, especially in areas where households facing displacement by Phase II implementation already have socio-economic links. LHDA will also actively investigate the feasibility of reallocating the unaffected land of physically displaced households to non-displaced households that have suffered land losses.
- c) Where land for land compensation is feasible, LHDA shall ensure appropriate tenure arrangements in terms of the Land Act 2010.

4.1.3.2 Lump Sum or Annual Payments

- a) Compensation for fields will be made to the field holder and his/her legally verified heir(s) and successor(s) by means of a lump sum payment or through an agreed number of instalments, up to a maximum of fifty (50) annual instalments, into a nominated account or through investment with an approved financial institution. The form of payment will be considered on a case-by-case basis, taking account of the economic status and means of the household, and the wishes and preferences of the spouse and other household members. Lump sum payments will be discounted at the rate established under the approved compensation rates.
- b) LHDA shall ensure that awareness-raising programmes are conducted with affected households to equip them to make informed decisions about their compensation options and to allow them sufficient time to finalise their preferences.
- c) Households who select the lump sum payment option will be assisted with their livelihood restoration efforts, through the provision of advisory services and training in alternative livelihood earning skills.
- d) Devaluation compensation for agricultural fields in the servitude of a power line will be in the form of a lump sum payment.

4.1.3.3 Grain Payments

- a) Grain payments will be retained as a compensation option. Grain compensation will be directly proportional to the area of land lost, and paid annually for a period of fifty (50) years.

4.1.4 Food Gardens

- a) Where households are relocated to a Project-designated resettlement site, LHDA will ensure, as far as reasonably possible, that garden land of adequate productive quality and ready for cultivation is

provided at the new residential site, irrespective of whether the household had a garden or not. The area of the new garden will be 300 m². For households who had a larger garden, LHDA will endeavour to provide an equivalent area, failing which the balance will be paid as a lump sum or through annual payments. LHDA will not arrange new garden land for households relocating to sites of their own choice outside the Project area.

- b) Monetary compensation for garden land will be made in the following circumstances:
 - i. when garden land is acquired without necessitating the relocation of the household;
 - ii. when it is not feasible to replace the full extent of garden land that existed at the original site;
 - iii. when a household with affected garden land chooses to relocate to an area of their own choice outside the Project area.
- c) Compensation payments for garden land may be made as a lump sum or on an annual basis (fifty (50) years), according to the preference of the affected household, except where a household who had a food garden relocates to an area of its own choice outside the Project area, in which case compensation will be in the form of a lump sum. Lump sum payments will be discounted at the rate established under the approved compensation rates.
- d) Households who did not have garden land, and who elect to relocate to an area of their own choice outside the Project area, will not be eligible for compensation for garden land.

4.1.5 Trees and Thickets

- a) Compensation for the lost production from private thickets and fruit and timber/fuel trees will be in the form of a lump sum payment.
- b) Commercial orchards will be compensated at commercial rates.
- c) Privately-owned trees that are felled (e.g. timber/fuel wood) will remain the property of the concerned owner.

4.1.6 Standing Crops

- a) Civil works will be planned to allow, as far as possible, for the acquisition of fields prior to the commencement of cultivation activities. Where fields have been cultivated prior to a declared cut-off date and the destruction of crops is unavoidable, compensation will be paid as a lump sum (as per the compensation rates) for the loss of the standing crops, including for fields that have been ploughed and planted but the seeds have not yet germinated. Land owners and encroachers using public land for the cultivation of crops prior to declared cut-off dates, will be entitled to compensation for standing crops.

4.1.7 Cultivators with Secondary Land Rights

- a) Persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land. Compensation will be paid to the field owner who can make arrangements with his/her sharecroppers on the apportionment of the compensation for any lost crops. Sharecroppers living in the Project area will be included in livelihood restoration programmes discussed in Section 5.3.

4.1.8 Graves

- a) Compensation of next-of-kin for the re-internment of graves is of a personal and sensitive nature and will therefore be discussed and negotiated on an individual basis. This includes ash heaps of stillborn babies. Graves can either be re-interned in a designated cemetery or at a site identified in consultation with the local authorities.
- b) Exhumation and re-interment will be carried out with all due ceremony as agreed with the surviving relatives. All costs associated with exhumation and reburial, including all associated and traditional ceremonies, will be borne by the Project.
- c) No area will be occupied by the Project until all graves and ash heaps have been removed or treated according to the wishes of the surviving relatives.

4.2 Entitlements for Communal and Public Assets

4.2.1 Rangeland and Useful Natural Resources

- a) Affected communal land and natural resources will be compensated according to the following principles:
 - i. LHDA will calculate the total compensation amount payable for the communal resources it is to acquire, based on the area of land lost and the number of affected households. These resources include grazing land, brushwood, medicinal plants, useful grasses and wild vegetables.
 - ii. Compensation funds for the loss of these resources will be made available for investment in community development ventures. The funds will be managed by LHDA for the implementation of development projects that have been agreed and prioritised by the affected communities and their local authorities. Where some physically displaced households move outside their local community/village to other host communities/villages, the funds will be apportioned between the concerned communities/villages based on the number of households relocating to the host communities/villages.
 - iii. Except as indicated in paragraph 4.2.1 (a) vi, no compensation funds in respect of communal assets will be directly transferred to Community Councils, to individuals or to other legal entities.
 - iv. As development projects are completed, they will be handed over, where applicable, to the responsible operating authorities for mentorship and support.
 - v. A household who relocates to an urban or peri-urban area with no communal natural resources may qualify for compensation for the loss of access to natural resources. Eligibility will be assessed on a case by case basis involving the relevant stakeholders. The compensation amount will be calculated with reference to the communal compensation entitlement of the village of origin and the number of affected households and paid as a lump sum.

4.2.2 Trees and Thickets

- a) Compensation for the lost production from communal thickets and fruit-bearing and non-fruit-bearing trees will be according to the compensation rates for thickets (per square metre rate,) fruit-trees and non-fruit-bearing trees (per tree rate), and made available for investment in approved community development ventures as described in Section 4.2.1.

4.2.3 Water Supplies

- a) Where the Project is the cause of a reduction in the supply of water from an established source, natural or artificial, to a community or an individual household, LHDA shall reinstate that source or replace it with another of at least equal yield, quality and convenience. This will be provided as part of compensation to all affected people and host communities to WATSAN standards.

4.2.4 Community-Owned Facilities

- a) Affected community buildings and facilities will be repaired to their previous condition or replaced in areas identified in consultation with affected communities and the relevant authorities.
- b) Impeded access will be restored or mitigated through the provision of approved feeder roads and footbridges. Where restoration of access is not economically viable, affected villages will be given the option of relocation according to the provisions of the Policy.

4.2.5 Cultural Assets

- a) Cultural assets such as rock-art and historical and heritage sites will be recorded, documented and, where feasible, rescued before commencement of civil works at the concerned sites.
- b) Paleontological artefacts found during construction activities will be rescued and stored in a suitable facility.

4.2.6 Institutional Property

- a) Institutional land and/or buildings owned by churches or NGOs that are acquired for Project purposes will be compensated depending on the choice of the institution by means of either:
 - i. a lump sum payment covering the replacement value of the property; or
 - ii. replacement in an area identified in consultation with the relevant institution and the regulating government authority where relevant (e.g. the Ministry of Education in the case of church schools).

4.3 Government-Owned Infrastructure

- a) LHDA will consult and coordinate with government ministries regarding potential Project impacts on government assets. To minimise impacts, LHDA will undertake complementary planning with government ministries to facilitate coordination of planned developments.
- b) Government-owned infrastructure and public amenities (such as woolsheds, dips and clinics) affected by Project activities will be repaired to their previous condition or replaced in areas identified in consultation with the relevant authority.
- c) Environmental and physical planning considerations will be taken into account in the repair, replacement and siting of affected infrastructure.

4.4 Downstream Impacts

- a) Impacts on communities downstream of the Polihali Reservoir up to the confluence of the Senqu and 'Malibamatso Rivers caused by reduced river flows will be mitigated through measures developed as part of the Project's Phase II environmental flow requirement (EFR) programme.

5 SPECIAL PROVISIONS

5.1 Disturbance Allowances

5.1.1 Household Disturbance Allowance

A disturbance allowance will be paid to households, including households enumerated on public land at the time of the Project's socio-economic censuses, whose primary residential structure or structures are required to be relocated. The Full Disturbance Allowance will be paid to a household who is required to relocate to a new residential/homestead site; the Partial Disturbance Allowance will be paid where a primary residential structure(s) is relocated on the existing homestead site and the household is not required to move to a new site.

Households whose outbuildings or secondary structures (such as a pit latrine) are relocated on the existing homestead site, but whose primary residential structures are not affected, will not be eligible for the disturbance allowance.

The allowance will be paid over three years from the date of disturbance. For households electing to relocate to a destination of their own choice (self-relocation) the allowance will be paid in the form of a lump sum payment.

5.1.2 Small Scale/Informal Trader Disturbance Allowance

A lump sum disturbance allowance will be paid to small scale/informal traders whose business structures are required to be relocated from their residential or public land.

5.1.3 Commercial Enterprise Disturbance Allowance

Owners of formal commercial enterprises will receive a disturbance allowance, the value of which will be determined as part of the impact assessment/valuation exercise.

5.2 Evacuation Assistance

LHDA will provide transport to physically displaced households and businesses for the removal of their assets, belongings and livestock to Project-designated and approved relocation sites. Households electing self-relocation to a site of their own choice will be paid a lump sum evacuation amount based on the relocation destinations detailed in the compensation rates.

5.3 Livelihood Restoration and Social Development

Livelihood restoration initiatives will be undertaken within the framework of current livelihood-earning activities, sustainable development and emerging income-generating opportunities so that individuals and communities can continue with improved income-earning activities after withdrawal of Project inputs and support. It is anticipated that livelihood restoration initiatives, which will consider all members of an affected household, not only the household head, will entail: land-based livelihoods; wage-based livelihoods; and enterprise-based livelihoods.

Livelihood restoration options will be identified in consultation with affected communities and households. Where considered viable, these options will be subjected to detailed feasibility studies, after which detailed planning, design, costing and funding options will be undertaken by LHDA.

In addition, a social development programme will be planned and implemented with local communities and their authorities in order to promote and support broad-based socio-economic development in the Project area.

5.4 Vulnerable Households

LHDA will identify and register all affected households who are especially vulnerable and most likely to suffer deprivation due to the effects of the Project. All households that are headed by orphans, by persons living with a disability or by elderly, indigent persons will be included in this category.

These families will receive the individual attention of LHDA and the relevant Government agencies, possibly assisted by NGOs (at LHDA expense), who will, as far as reasonably possible, ensure that they are enabled to retain and where possible improve upon the standard of living they enjoyed before the Project affected them.

Support measures to vulnerable households could include: skills training opportunities as applicable; income-generating/alternative livelihood earning opportunities (subject to detailed feasibility studies); and assistance to get access to any available poverty alleviation/social welfare programmes.

5.5 Minimum Household Income Threshold

The annual compensation income - defined as the combined annual compensation for fields, gardens, trees, residential plots and communal natural resources, as applicable - will be measured at the time of initial compensation calculations against the minimum household income threshold used by the Project. If the household's annual compensation income, as defined above, is below this threshold, LHDA will pay the difference, up to the level of the threshold, for a maximum period of ten (10) years. LHDA will consider special cases where vulnerable households do not formally qualify for this top-up payment.

Owners who receive lump sum devaluation compensation for agricultural fields/food gardens in a power line servitude are not eligible for this entitlement since they retain ownership of the land.

5.6 Orphans

Where LHDA acquires the assets of orphans, it will pay the compensation in respect of these assets to the Master of the High Court for administration on the orphans' behalf until they attain their majority.

LHDA will pay the school fees of orphans under the age of 18 whose assets it has acquired.

Subject to a maximum per family, LHDA will pay a monthly food and clothing allowance to the Master of the High Court in respect of orphans whose assets it has acquired.

6 HOST COMMUNITIES

Host communities receiving households that are displaced by the Project will be considered as Project-affected parties and will be compensated according to the provisions of this Policy for any direct losses incurred as a result of resettlement activities. For loss of private assets, compensation will be according to the provisions of the Policy. For impacts on communal assets/resources, mitigation measures will be identified through the resettlement planning process and assessed in consultation with government and local authorities.

Formal consultation mechanisms involving representatives of the host and resettled communities will be institutionalised to promote social integration.

7 GRIEVANCE AND DISPUTE RESOLUTION

A grievance resolution procedure has been established by LHDA by which affected people can bring complaints for consideration and redress. These are essential tools for allowing affected individuals to voice concerns as they arise and, if necessary, for corrective action to be taken. They are also fundamental to achieving the Project's principle of transparency.

It is in the interest of all concerned that grievances are resolved through Project-related mechanisms in the first instance, where LHDA and all stakeholders are represented. Initially, the complainant discusses his/her grievance with the community participation structure and local authorities. Verified grievances are thereafter submitted to LHDA, who investigates the grievance in a structured and time-bound manner, including interactions with the aggrieved party, community participation structure and local authorities, to reach a mutually agreed solution. If the grievance is successfully resolved, a confirmation form is signed by the aggrieved person, LHDA and other authorities (e.g. Community Council) as necessary.

All steps are taken to resolve grievances within the appropriate Project structures. If resolution cannot be reached at this level, the claimant has recourse to external dispute resolution mechanisms, including the courts of law.

A written record of all grievances raised and dealt with is kept by LHDA. All grievances are treated in confidence, and no information on grievances is made public without the consent of the aggrieved party.

8 MONITORING AND EVALUATION

The effectiveness of the LHWP Phase II compensation and resettlement programme will be monitored, including the physical progress of resettlement and rehabilitation activities, disbursement of compensation, effectiveness of consultation and participation, and the sustainability of livelihood restoration efforts. The overall objective of monitoring is to provide feedback on the implementation process, and to identify problems and successes as early as possible in this process so that adjustment of implementation arrangements can be made.

The socio-economic census undertaken during resettlement planning and other socio-economic studies will be used to compile baseline information on affected households and communities, and assist with the assessment of livelihoods and standards of living. This baseline information will provide a set of socio-economic indicators against which to measure, as part of the monitoring programme, changes in the livelihoods and income of affected households.

A time-bound monitoring programme will be prepared and implemented. Affected households will be monitored at appropriate intervals during this programme, following the first impact of the Project on them, to assess any change in their standard of living and income, and the effectiveness of the compensation, resettlement, livelihood restoration, public health and other LHDA programmes in maintaining their standard of living. The studies will reveal which households have been unable to maintain their standard of living, enabling LHDA to respond with adjustments to the compensation package and other appropriate measures.

A Panel of Environment Experts (PoE) will be appointed to provide guidance to LHDA on the Project's social/resettlement and environmental programmes. The Panel will undertake overall evaluations of the Phase II resettlement and livelihood restoration programme, give advice on any emerging issues, and provide recommendations on how to address issues and improve the resettlement programme.

An Independent Oversight Committee (IOC) will also be appointed by the LHWC to perform an independent oversight role and to undertake monitoring and auditing of procedures and activities on the Project as a whole.